

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

MAR 13 2006

CLARENCE DAVIS

Plaintiff

vs.

PENNSYLVANIA DEPT. OF
CORRECTIONS, ET AL.,
Defendants

PER  DEPUTY CLERK

CIVIL ACTION NO. 3:03-68

(JUDGE NEALON)
(MAGISTRATE JUDGE SMYSER)

ORDER

Plaintiff, an inmate currently incarcerated at the SCI-Retreat, commenced this prisoner civil rights action by the filing of a complaint pursuant to the 42 U.S.C. § 1983 on January 10, 2003 and amended on May 28, 2003. (Docs. 1,25). His allegations stem from his previous incarceration at SCI-Dallas. The essence of the Plaintiff's claim is that a corrections officer, Defendant Filipak, retaliated against the Plaintiff for exercising his constitutional right to complain to prison officials about the conduct of Mr. Filipak. The form of the retaliation was the Plaintiff's transfer into the Restrictive Housing Unit (RHU) and then to another institution. By Order dated August 6, 2003, the court found the amended complaint insufficient to state a claim against all named Defendants except for Defendant Filipiak, and he is the only Defendant who presently remains. (Doc. 33).

Defendant filed a motion for summary judgment, which the court denied by order dated January 30, 2006, (Doc. 145). On February 15, 2006, United States Magistrate Judge J. Andrew Smyser issued a Report and Recommendation in this matter, recommending the case be listed for trial inasmuch as no subsequent motions were filed by either party. (Doc. 149). No objections were filed to the Magistrate Judge's Report and Recommendation. After careful review and in the exercise of sound judicial discretion, the Court adopts the Magistrate Judge's Report and Recommendation.

ACCORDINGLY, THIS 13th DAY OF MARCH, 2006 IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 149) is ADOPTED.
2. This case will be listed for trial, and a pre-trial conference will be scheduled at a later date.

s/ William J. Nealon
United States District Judge